

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
rules 23.4.201, definitions, 23.4.213,)
field certification-breath analysis)
instruments, 23.4.214, lab certification,)
23.4.215, qualification-breath analysis)
location, 23.4.216, personnel)
qualifications, 23.4.217, recertification-)
breath test personnel, 23.4.220, blood)
sample collections, and 23.4.225,)
preliminary alcohol screening tests)

TO: All Concerned Persons

1. On March 22, 2007, the Department of Justice published MAR Notice 23-4-185 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 330 of the 2007 Montana Administrative Register, Issue Number 6.

2. The department has amended the following rules as proposed: ARM 23.4.201, 23.4.214, 23.4.215, 23.4.216, 23.4.217, 23.4.220, and 23.4.225.

3. The department has adopted ARM 23.4.213 with the following revisions, new matter underlined, deleted matter interlined:

23.4.213 FIELD CERTIFICATION OF BREATH ANALYSIS INSTRUMENTS
AND ASSOCIATED EQUIPMENT (1) through (1)(d) remain as proposed.

(e) A field certification shall be performed whenever a new breath analysis instrument is placed in service or when a breath analysis instrument is returned to service. In addition, whenever a breath analysis instrument is placed in a mobile service capacity, a field certification shall be done prior to ~~the day's~~ mobile use and again at the end of ~~the day's~~ mobile use. The field certification results must be on file at the testing location before the breath analysis instrument can be used for subject testing.

(f) through (2)(f) remain as proposed.

4. The department has thoroughly considered the comment and testimony received. A summary of the comment received and the department's response is as follows:

COMMENT: A suggestion was made that the phrase "the day" would lead to confusion as to how that was defined.

RESPONSE: The phrase "the day" was changed to "mobile" to eliminate the problem of the breath analysis instrument being in use past midnight of the day of use.

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| By: /s/ Mike McGrath | /s/ Jon Ellingson |
| Mike McGrath | Jon Ellingson |
| Attorney General | Rule Reviewer |
| Department of Justice | |

Certified to the Secretary of State on April 30, 2007.